

## SUBCOMMITTEE: REDISTRICTING

HOUSE BILL NO. 1256

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Privileges and Elections

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Price)

A BILL to amend and reenact §§ 24.2-304.1, 24.2-306, 24.2-309.2, 30-263, 30-264, 30-265, and 53.1-10 of the Code of Virginia and to amend the Code of Virginia by adding in Title 30 a chapter numbered 60, consisting of sections numbered 30-376 through 30-386, and by adding a section numbered 53.1-5.2, relating to redistricting; Virginia Redistricting Commission; congressional and state legislative districts; standards and criteria; population data.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 24.2-304.1, 24.2-306, 24.2-309.2, 30-263, 30-264, 30-265, and 53.1-10 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 30 a chapter numbered 60, consisting of sections numbered 30-376 through 30-386, and by adding a section numbered 53.1-5.2 as follows:**

**§ 24.2-304.1. At-large and district elections; reapportionment and redistricting of districts or wards; limits.**

A. Except as otherwise specifically limited by general law or special act, the governing body of each county, city, or town may provide by ordinance for the election of its members on any of the following bases: (i) at large from the county, city, or town; (ii) from single-member or multi-member districts or wards, or any combination thereof; or (iii) from any combination of at-large, single-member, and multi-member districts or wards. A change in the basis for electing the members of the governing body shall not constitute a change in the form of county government.

B. If the members are elected from districts or wards and other than entirely at large from the locality, the districts or wards shall be composed of contiguous and compact territory and shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the

district or ward. In 1971 and every 10 years thereafter, the governing body of each such locality shall reapportion the representation among the districts or wards, including, if the governing body deems it appropriate, increasing or diminishing the number of such districts or wards, in order to give, as nearly as is practicable, representation on the basis of population.

C. For the purposes of redistricting and reapportioning representation in ~~2001~~ 2021 and every 10 years thereafter, the governing body of a county, city, or town shall use the most recent decennial population figures for such county, city, or town from the United States Bureau of the Census, ~~which figures are identical to those from the actual enumeration conducted by the United States Bureau of the Census for the apportionment of representatives in the United States House of Representatives, except that the~~ as adjusted by the Division of Legislative Services pursuant to § 30-383. The census data for these redistricting and apportionment purposes will not include any population figure that is not allocated to specific census blocks within the Commonwealth, even though that population may have been included in the apportionment population figures of the Commonwealth for the purpose of allocating United States House of Representatives seats among the states. ~~The governing body of any county, city, or town may elect to exclude the adult inmate population of any federal, state, or regional adult correctional facility located in the locality from the population figures used for the purposes of the decennial reapportionment and redistricting. The adult inmate population so excluded shall be based on information provided by the facility as to the adult inmate population at the facility on the date of the decennial census.~~

D. Notwithstanding any other provision of general law or special act, the governing body of a county, city, or town shall not reapportion the representation in the governing body at any time other than that required following the decennial census, except as (i) provided by law upon a change in the boundaries of the county, city, or town that results in an increase or decrease in the population of the county, city, or town of more than one percent, (ii) the result of a court order, (iii) the result of a change in the form of government, or (iv) the result of an increase or decrease in the number of districts or wards other than at-large districts or wards. The foregoing provisions notwithstanding, the governing body subsequent to the decennial redistricting may adjust district or ward boundaries in order that the boundaries might coincide with state legislative or congressional district boundaries; however, no adjustment shall affect more than

five percent of the population of a ward or district or 250 persons, whichever is lesser. If districts created by a reapportionment enacted subsequent to a decennial reapportionment are invalid under the provisions of this subsection, the immediately preexisting districts shall remain in force and effect until validly reapportioned in accordance with law.

**§ 24.2-306. Changes not to be enacted within 60 days of general election; notice requirements.**

A. No change in any local election district, precinct, or polling place shall be enacted within 60 days next preceding any general election. Notice shall be published prior to enactment in a newspaper having general circulation in the election district or precinct once a week for two successive weeks. The published notice shall state where descriptions and maps of proposed boundary and polling place changes may be inspected.

B. Notice of any adopted change in any election district, town, precinct, or polling place other than in the location of the office of the general registrar shall be mailed to all registered voters whose election district, town, precinct, or polling place is changed at least 15 days prior to the next general, special, or primary election in which the voters will be voting in the changed election district, town, precinct, or polling place. Notice of a change in the location of the office of the general registrar shall be given by posting on the official website of the county or city, by posting at not less than 10 public places, or by publication once in a newspaper of general circulation in the county or city within not more than 21 days in advance of the change or within seven days following the change.

C. Each county, city, and town shall comply with the applicable requirements of law, including §§ 24.2-304.3 and ~~30-264~~ 30-380, and send copies of enacted changes, including a Geographic Information System (GIS) map showing the new boundaries of the districts or precincts, to the local electoral board, the Department, and the Division of Legislative Services. Any county, city, or town that does not have GIS capabilities may request the Department of Elections to create on its behalf a GIS map showing the boundaries of the new districts or precincts, and the Department of Elections shall create such a map.

**§ 24.2-309.2. Election precincts; prohibiting precinct changes for specified period of time.**

No county, city, or town shall create, divide, abolish, or consolidate any precincts, or otherwise change the boundaries of any precinct, effective during the period from February 1, 2019, to May 15,

2021, except as (i) provided by law upon a change in the boundaries of the county, city, or town, (ii) the result of a court order, (iii) the result of a change in the form of government, or (iv) the result of an increase or decrease in the number of local election districts other than at-large districts. Any ordinance required to comply with the requirements of § 24.2-307 shall be adopted on or before February 1, 2019.

If a change in the boundaries of a precinct is required pursuant to clause (i), (ii), (iii), or (iv), the county, city, or town shall comply with the applicable requirements of law, including §§ 24.2-304.3 and ~~30-264~~ 30-380, and send copies of the ordered or enacted changes to the State Board of Elections and the Division of Legislative Services.

This section shall not prohibit any county, city, or town from adopting an ordinance revising precinct boundaries after January 1, 2021. However, no revisions in precinct boundaries shall be implemented in the conduct of elections prior to May 15, 2021.

**§ 30-263. Joint Reapportionment Committee; membership; terms; quorum; compensation and expenses.**

A. The Joint Reapportionment Committee (the Joint Committee) is established in the legislative branch of state government. The Joint Committee shall consist of five members of the Committee on Privileges and Elections of the House of Delegates and three members of the Committee on Privileges and Elections of the Senate appointed by the respective chairmen of the two committees. Members shall serve terms coincident with their terms of office.

B. The Joint Committee shall elect a chairman and vice-chairman from among its membership. A majority of the members of the Joint Committee shall constitute a quorum. The meetings of the Joint Committee shall be held at the call of the chairman or whenever the majority of the members so request.

C. The Joint Committee shall supervise activities required for the tabulation of population for the census and for the timely reception of precinct population data for reapportionment, ~~and perform such other duties and responsibilities and exercise such supervision as may promote the orderly redistricting of congressional, state legislative, and local election districts.~~

D. Members shall receive such compensation as provided in § 30-19.12 and shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§

2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Office of the Clerk of the House of Delegates and the Office of Clerk of the Senate for their respective members.

**§ 30-264. Staff to Joint Reapportionment Committee.**

~~A. The Division of Legislative Services (the Division) shall serve as staff to the Joint Reapportionment Committee. The Director of the Division, or his designated representative, shall serve as the state liaison with the United States Bureau of the Census on matters relating to the tabulation of the population for reapportionment purposes pursuant to United States Public Law 94-171. The governing bodies, electoral boards, and registrars of every county and municipality shall cooperate with the Division in the exchange of all statistical and other information pertinent to preparation for the census.~~

~~B. The Division shall maintain the current election district and precinct boundaries of each county and city as a part of the General Assembly's computer assisted mapping and redistricting system. Whenever a county or city governing body adopts an ordinance that changes an election district or precinct boundary, the local governing body shall provide a copy of its ordinance, along with Geographic Information System (GIS) maps and other evidence documenting the boundary, to the Division.~~

~~C. The Division shall prepare and maintain a written description of the boundaries for the congressional, senatorial, and House of Delegates districts set out in Article 2 (§ 24.2-302 et seq.) of Chapter 3 of Title 24.2. The descriptions shall identify each district boundary, insofar as practicable, by reference to political subdivision boundaries or to physical features such as named roads and streets. The Division shall furnish to each general registrar the descriptions for the districts dividing his county or city. The provisions of Article 2, including the statistical reports referred to in Article 2, shall be controlling in any legal determination of a district boundary.~~

**§ 30-265. Reapportionment of congressional and state legislative districts; United States Census population counts.**

For the purposes of redrawing the boundaries of the congressional, state Senate, and House of Delegates districts after the United States Census for the year ~~2000~~ 2020 and every 10 years thereafter, ~~the General Assembly~~ Virginia Redistricting Advisory Commission established pursuant to § 30-376 shall

use the population data provided by the United States Bureau of the Census ~~identical to those from the~~  
~~actual enumeration conducted by the Bureau for the apportionment of the Representatives of the United~~  
~~States House of Representatives following the United States decennial census, except that the~~ as adjusted  
by the Division of Legislative Services, pursuant to § 30-383. The census data used for this apportionment  
purpose shall not include any population figure which is not allocated to specific census blocks within the  
Commonwealth, even though that population may have been included in the apportionment population  
figures of the Commonwealth for the purpose of allocating United States House of Representatives seats  
among the states.

## CHAPTER 60.

### VIRGINIA REDISTRICTING ADVISORY COMMISSION.

#### **§ 30-376. Virginia Redistricting Advisory Commission.**

A. The Virginia Redistricting Advisory Commission is established in the legislative branch of state  
government. It shall be convened in the year 2020 and every 10 years thereafter for the purpose of  
proposing districts for the United States House of Representatives and for the Senate and the House of  
Delegates of the General Assembly that adhere to certain constitutional and statutory criteria and that will  
be submitted for consideration and adoption by the General Assembly.

#### B. As used in this chapter:

"Census data" means the population data received from the United States Bureau of the Census  
pursuant to P.L. 94-171.

"Commission" means the Virginia Redistricting Advisory Commission established pursuant to this  
chapter.

"Committee" means the Redistricting Commission Selection Committee established pursuant to §  
30-378.

"Partisan public office" means (i) an elective or appointive office in the executive or legislative  
branch or in an independent establishment of the federal government; (ii) an elective office in the executive  
or legislative branch of the government of the Commonwealth, or an office that is filled by appointment  
and is exempt from the Virginia Personnel Act (§ 2.2-2900 et seq.); or (iii) an office of a county, city, or

other political subdivision of the Commonwealth that is filled by an election process involving nomination and election of candidates on a partisan basis.

"Political party office" means an elective office in the national or state organization of a political party, as defined in § 24.2-101.

**§ 30-377. Membership; terms; vacancies; chairman; quorum; compensation and expenses.**

A. The Virginia Advisory Redistricting Commission shall consist of 16 commissioners that include eight legislative commissioners and eight citizen commissioners as follows: two commissioners shall be members of the Senate of Virginia, representing the political party having the highest number of members in the Senate and appointed by the President pro tempore of the Senate; two commissioners shall be members of the Senate, representing the political party having the next highest number of members in the Senate and appointed by the leader of that political party; two commissioners shall be members of the House of Delegates, representing the political party having the highest number of members in the House of Delegates and appointed by the Speaker of the House of Delegates; two commissioners shall be members of the House of Delegates, representing the political party having the next highest number of members in the House of Delegates and appointed by the leader of that political party; and eight citizen commissioners shall be selected by the Redistricting Commission Selection Committee pursuant to § 30-379. No appointing authority shall appoint himself to serve as a legislative commissioner or citizen commissioner.

B. Legislative commissioners selected to serve as commissioners of the Commission shall be appointed by the respective authorities no later than September 1 of the year ending in zero and shall continue to serve until their successors are appointed. In making their appointments, the appointing authorities shall ensure that the legislative commissioners, as a whole, are representative of the geographic, racial, and gender diversity of the Commonwealth. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointment, such that the proper partisan balance of the Commission is maintained.

C. Citizen commissioners selected to serve as commissioners of the Commission shall be selected by the Redistricting Commission Selection Committee as provided in § 30-379. In making its selections,

the Committee shall ensure that the citizen commissioners, as a whole, are representative of the geographic, racial, and gender diversity of the Commonwealth. Citizen commissioners shall be appointed no later than October 15 of the year ending in zero and shall continue to serve until their successors are appointed. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled by the Commission by selecting a replacement from the list submitted pursuant to subsection E of § 30-379 from which the commissioner being replaced was selected and shall require an affirmative vote of a majority of the commissioners, including at least one commissioner representing or affiliated with each political party.

D. Legislative commissioners shall receive such compensation as provided in § 30-19.12 and citizen commissioners shall receive such compensation as provided in § 2.2-2813 for their services. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. All such compensation and expense payments shall come from existing appropriations to the Commission.

E. By November 1 of the year ending in zero, the Commission shall hold a public meeting at which it shall select a chairman and vice-chairman from its membership. The chairman and vice-chairman shall be citizen commissioners with different political party affiliations. Nine commissioners shall constitute a quorum. Any action taken by the Commission pursuant to this chapter shall be in a public meeting and shall require an affirmative vote of at least 12 commissioners, except for the selection of chairman and vice-chairman, which shall require only a simple majority.

F. All meetings and records of the Commission shall be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except as provided in subsection E of § 30-379. All records and documents of the Commission, or any individual or group performing delegated functions of or advising the Commission, related to the Commission's work, including internal communications and communications from outside parties, shall be considered public information, except where protected by attorney-client privilege.

G. Commissioners, staff of the Commission, and any other advisor or consultant to the Commission shall not communicate with any person outside the Commission about matters related to



reapportionment or redistricting outside of a public meeting or hearing. Written public comments submitted to the Commission, staff of the Commission, or any other advisor or consultant to the Commission shall not be a violation of this subsection.

H. In the event the Commission hires a lawyer or law firm, the Commission as an entity shall be considered the client of the lawyer or the law firm. No individual commissioner or group of commissioners shall be considered to be the client of the lawyer or the law firm. The compensation and expenses of any such lawyer or law firm shall be provided from existing appropriations to the Commission.

**§ 30-378. Redistricting Commission Selection Committee; chairman; quorum; compensation and expenses.**

A. There shall be a Redistricting Commission Selection Committee established for the purpose of selecting the citizen commissioners of the Virginia Redistricting Advisory Commission. This committee shall consist of five retired judges of the circuit courts of Virginia.

B. By July 1 of the year ending in zero, the Chief Justice of the Supreme Court of Virginia shall certify to the Speaker of the House of Delegates, the leader in the House of Delegates of the political party having the next highest number of members in the House of Delegates, the President pro tempore of the Senate of Virginia, and the leader in the Senate of Virginia of the political party having the next highest number of members in the Senate of Virginia a list of at least 10 retired judges of the circuit courts of Virginia who are willing to serve on the Committee and no retired judge who is a parent, spouse, child, sibling, parent-in-law, child-in-law, or sibling-in-law of, or a cohabitating member of a household with, a member of the Congress of the United States or of the General Assembly shall be included in such list. In compiling this list, the Chief Justice shall give consideration to the racial, ethnic, geographic, and gender diversity of the Commonwealth. These members shall each select a judge from the list and shall promptly, but not later than July 15, communicate their selection to the Chief Justice, who shall immediately notify the four judges selected. In making their selections, the members shall give consideration to the racial, ethnic, geographic, and gender diversity of the Commonwealth. Within three days of being notified of their selection, the four judges shall select, by a majority vote, a judge from the list prescribed herein to serve as the fifth member of the Committee, who shall serve as the chairman of the Committee.

A majority of the Committee members, which majority shall include the chairman, shall constitute a quorum.

The judges of the Committee shall serve until their successors are appointed. If a judge cannot, for any reason, complete his term, the remaining judges shall select a replacement from the list prescribed herein.

C. Members of the Committee shall receive compensation for their services and shall be allowed all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. The compensation and expenses of members and all other necessary expenses of the Committee shall be provided from existing appropriations to the Commission.

D. All meetings and records of the Committee shall be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except as provided in subsection E of § 30-379. All records and documents of the Committee, or any individual or group performing delegated functions of or advising the Committee, related to the Committee's work, including internal communications and communications from outside parties, shall be considered public information, except where protected by attorney-client privilege.

E. Notwithstanding the provisions of § 1-210 regarding the computation of time, if an act required by this section is to be performed on a Saturday, Sunday, or legal holiday, or any day or part of a day on which the government office where the act to be performed is closed, the act required shall be performed on the first business day immediately preceding the Saturday, Sunday, or legal holiday, or day on which the government office is closed.

**§ 30-379. Citizen commissioners; application process; qualifications; selection.**

A. The Committee shall adopt an application and process by which residents of the Commonwealth may apply to serve on the Commission as citizen commissioners. The Division of Legislative Services shall assist the Committee in the development of the application and process.

The application for service on the Commission shall require applicants to provide personal contact information and information regarding the applicant's race, ethnicity, gender, age, date of birth, and education. The application shall require an applicant to disclose, for the period of three years immediately

preceding the application period, the applicant's (i) voter registration status; (ii) preferred political party affiliation, if any, and any political party primary elections in which he has voted; (iii) history of any partisan public offices or political party offices held or sought; (iv) employment history, including any current or prior employment with the Congress of the United States or one of its members, the General Assembly or one of its members, any political party, or any campaign for a partisan public office, including a volunteer position; and (v) relevant leadership experience or involvements with professional, social, political, volunteer, and community organizations and causes.

The application shall require an applicant to disclose information regarding the partisan activities and employment history of the applicant's parent, spouse, child, sibling, parent-in-law, child-in-law, or sibling-in-law or any person with whom the applicant is a cohabitating member of a household, for the period of three years immediately preceding the application period.

The Committee shall require applicants to submit three letters of recommendation from individuals or organizations. Such letters shall speak to the applicant's qualifications for service, technical skills, or ability to operate with integrity.

The application process shall provide for both paper and electronic or online applications. The Committee shall cause to be advertised throughout the Commonwealth information about the Commission and how interested persons may apply. The Division of Legislative Services shall make available the application for persons to use when submitting a paper application and shall provide electronic access for electronic submission of applications.

B. To be eligible for service on the Commission, a person shall have been a resident of the Commonwealth and a registered voter in the Commonwealth for three years immediately preceding the application period. He shall have voted in at least two of the previous three general elections. No person shall be eligible for service on the Commission who:

1. Holds, has held, or has sought partisan public office or political party office;
2. Is employed by or has been employed by a member of the Congress of the United States or of the General Assembly or is employed directly by or has been employed directly by the United States Congress or by the General Assembly;

3. Is employed by or has been employed by any federal, state, or local campaign;

4. Is employed by or has been employed by any political party or is a member of a political party central committee;

5. Is a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 or a lobbyist's principal as defined in § 2.2-419 or has been such a lobbyist or lobbyist's principal in the previous five years; or

6. Is a parent, spouse, child, sibling, parent-in-law, child-in-law, or sibling-in-law of a person described in subdivisions 1 through 5, or is a cohabitating member of a household with such a person.

C. The application period shall begin no later than August 1 of the year ending in zero and shall end on August 31. During this period, interested persons shall submit a completed application and any required documentation to the Division of Legislative Services. All applications shall be reviewed by the Division of Legislative Services to ensure an applicant's eligibility for service pursuant to subsection B, and any applicant who is ineligible for service shall be removed from the applicant pool.

D. Within two weeks of the close of the application period, the Division of Legislative Services shall provide to the Speaker of the House of Delegates, the leader in the House of Delegates of the political party having the next highest number of members in the House of Delegates, the President pro tempore of the Senate of Virginia, and the leader in the Senate of Virginia of the political party having the next highest number of members in the Senate of Virginia the applications and documentation submitted by those applicants who are eligible for service on the Commission pursuant to subsection B and submitted complete applications, including any required documentation.

E. By October 1 of the year ending in zero, those persons receiving the applications pursuant to subsection D shall each submit to the Committee a list of at least 16 citizen candidates for service on the Commission. In selecting citizen candidates, they shall ensure that the citizen candidates, as a whole, are representative of the geographic, racial, and gender diversity of the Commonwealth.

They shall notify the Division of Legislative Services of the citizen candidates submitted to the Committee for consideration and the Division of Legislative Services shall promptly provide to the Committee the applications and documentation for each citizen candidate being considered. Only the

324 applications and documentation for each citizen candidate shall be maintained as public records, which  
325 personal contact information redacted.

326 F. Within two weeks of receipt of the lists of citizen candidates and related materials pursuant to  
327 subsection E, the Committee shall select, by a majority vote in a public meeting, two citizen members  
328 from each list submitted. In making its selections, the Committee shall ensure that the citizen candidates,  
329 as a whole, are representative of the geographic, racial, and gender diversity of the Commonwealth. The  
330 Committee shall promptly notify those eight citizens of their selection to serve as a citizen commissioner  
331 of the Commission.

332 No member of the Committee shall communicate with a member of the General Assembly or the  
333 United States Congress, or any person acting on behalf of a member of the General Assembly or the United  
334 States Congress, about any matter related to the selection of citizen commissioners after receipt of the lists  
335 submitted pursuant to subsection E.

336 G. Notwithstanding the provisions of § 1-210 regarding the computation of time, if an act required  
337 by this section is to be performed on a Saturday, Sunday, or legal holiday, or any day or part of a day on  
338 which the government office where the act to be performed is closed, the act required shall be performed  
339 on the first business day immediately preceding the Saturday, Sunday, or legal holiday, or day on which  
340 the government office is closed.

341 **§ 30-380. Staff to Virginia Redistricting Commission; census liaison.**

342 A. The Division of Legislative Services shall provide staff support to the Commission. Staff shall  
343 perform those duties assigned to it by the Commission. The Director of the Division of Legislative  
344 Services, or his designated representative, shall serve as the state liaison with the United States Bureau of  
345 the Census on matters relating to the tabulation of the population for reapportionment purposes pursuant  
346 to P.L. 94-171. The governing bodies, electoral boards, and registrars of every county and municipality  
347 shall cooperate with the Division of Legislative Services in the exchange of all statistical and other  
348 information pertinent to preparation for the census.

349 B. The Division of Legislative Services shall maintain the current election district and precinct  
350 boundaries of each county and city as a part of the Commission's computer-assisted mapping and

redistricting system. Whenever a county or city governing body adopts an ordinance that changes an election district or precinct boundary, the local governing body shall provide a copy of its ordinance, along with Geographic Information System (GIS) maps and other evidence documenting the boundary, to the Division of Legislative Services.

C. The Division of Legislative Services shall prepare and maintain a written description of the boundaries for the congressional, senatorial, and House of Delegates districts set out in Article 2 (§ 24.2-302 et seq.) of Chapter 3 of Title 24.2. The descriptions shall identify each district boundary, insofar as practicable, by reference to political subdivision boundaries or to physical features such as named roads and streets. The Division of Legislative Services shall furnish to each general registrar the descriptions for the districts dividing his county or city. The provisions of Article 2 of Chapter 3 of Title 24.2, including the statistical reports referred to in Article 2 of Chapter 3 of Title 24.2, shall be controlling in any legal determination of a district boundary.

**§ 30-381. Public participation in redistricting process.**

A. All meetings and hearings held by the Commission shall be adequately advertised and planned to ensure the public is able to attend and participate fully. Meetings and hearings shall be advertised in multiple languages as practicable and appropriate. Meetings shall be video recorded and transcribed, and archived videos and transcripts of all meetings shall be available on the Commission's website.

B. The Commission shall hold a series of public hearings in different regions of the Commonwealth to gather information and receive public comment on the 2021 decennial redistricting process. These public hearings shall be conducted prior to February 1 of the year ending in one, and the information gathered and public comment received shall be taken into consideration by the Commission when drawing plans for districts for the United States House of Representatives, the Senate, and the House of Delegates.

C. Prior to voting to submit any plan to the General Assembly, the Commission shall hold at least seven public hearings in different parts of the Commonwealth in order to receive and consider comments from the public on the proposed plan.

377 D. The Commission shall establish and maintain a website or other equivalent electronic platform.

378 The website shall be available to the general public and shall be used to disseminate information about  
379 the Commission's activities. The website shall be capable of receiving comments and proposals by citizens  
380 of the Commonwealth. Prior to voting to submit any plan, the Commission shall publish the proposed plan  
381 on the website.

382 E. All data used by the Commission in the drawing of districts shall be available to the public on  
383 its website. Such data, including census data, precinct maps, election results, and shapefiles, shall be  
384 posted within three days of receipt by the Commission.

385 **§ 30-382. Standards and criteria for congressional and legislative districts.**

386 Every congressional and state legislative district shall be constituted so as to adhere to the  
387 following criteria:

388 1. Districts shall be so constituted as to give, as nearly as is practicable, representation in proportion  
389 to the population of the district. A deviation of no more than five percent shall be permitted for state  
390 legislative districts.

391 2. Districts shall be drawn in accordance with the requirements of the Constitution of the United  
392 States, including the Equal Protection Clause of the Fourteenth Amendment, and the Constitution of  
393 Virginia; federal and state laws, including the federal Voting Rights Act of 1965, as amended; and relevant  
394 judicial decisions relating to racial and ethnic fairness.

395 3. No district shall be drawn that results in a denial or abridgement of the right of any citizen to  
396 vote on account of race or color or membership in a language minority group. No district shall be drawn  
397 that results in a denial or abridgement of the rights of any racial or language minority group to participate  
398 in the political process and to elect representatives of their choice. A violation of this subdivision is  
399 established if, on the basis of the totality of the circumstances, it is shown that districts were drawn in such  
400 a way that members of a racial or language minority group are dispersed into districts in which they  
401 constitute an ineffective minority of voters or are concentrated into districts where they constitute an  
402 excessive majority. The extent to which members of a racial or language minority group have been elected  
403 to office in the state or the political subdivision is one circumstance that may be considered. Nothing in

404 this subdivision shall establish a right to have members of a racial or language minority group elected in  
405 numbers equal to their proportion in the population.

406 4. Districts shall be drawn to give racial and language minorities an equal opportunity to participate  
407 in the political process and shall not dilute or diminish their ability to elect candidates of choice either  
408 alone or in coalition with others.

409 5. Districts shall be drawn to preserve communities of interest. For purposes of this subdivision, a  
410 "community of interest" means a neighborhood or any geographically defined group of people living in  
411 an area who share similar social, cultural, and economic interests. A "community of interest" does not  
412 include a community based upon political affiliation or relationship with a political party, elected official,  
413 or candidate for office.

414 6. Districts shall be composed of contiguous territory, with no district contiguous only by  
415 connections by water running downstream or upriver, and political boundaries may be considered.

416 7. Districts shall be composed of compact territory and shall be drawn employing one or more  
417 standard numerical measures of individual and average district compactness, both statewide and district  
418 by district.

419 8. A map of districts shall not, when considered on a statewide basis, unduly favor or disfavor any  
420 political party.

421 9. The whole number of persons reported in the most recent federal decennial census by the United  
422 States Bureau of the Census shall be the basis for determining district populations, except that no person  
423 shall be deemed to have gained or lost a residence by reason of conviction and incarceration in a federal,  
424 state, or local correctional facility. Persons incarcerated in a federal, state, or local correctional facility  
425 shall be counted in the locality of their address at the time of incarceration, and the Division of Legislative  
426 Services shall adjust the census data pursuant to § 30-383 for this purpose.

427 **§ 30-383. Population data; reallocation of prison populations.**

428 A. Persons incarcerated in federal correctional facilities and in state and local correctional  
429 facilities, as those terms are defined in § 53.1-1, shall be counted and reallocated for redistricting and  
430 reapportionment purposes in accordance with the provisions of this section and the following:



431 1. A person incarcerated in a federal, state, or local correctional facility whose address at the time  
432 of incarceration was located within the Commonwealth shall be deemed to reside at such address.

433 2. A person incarcerated in a federal, state, or local correctional facility whose address at the time  
434 of incarceration was located outside of the Commonwealth or whose address at the time of incarceration  
435 cannot be determined shall be deemed to reside at the location of the facility in which he is incarcerated.

436 B. By July 1 of any year in which the decennial census is taken, the Department of Corrections  
437 and the Board of Corrections shall provide to the Division of Legislative Services, in a format specified  
438 by the Division of Legislative Services, the following information for each person who was incarcerated  
439 in a state or local correctional facility on April 1 of that year:

440 1. A unique identifier, other than his name or offender identification number, assigned by the  
441 Department of Corrections or the Board of Corrections for this purpose;

442 2. His residential street address at the time of incarceration, or other legal residence, if known;

443 3. His race, his ethnicity as identified by him, and whether he is 18 years of age or older; and

444 4. The street address of the correctional facility in which he was incarcerated on April 1 of that  
445 year.

446 C. The Division of Legislative Services shall request each agency operating a federal correctional  
447 facility in the Commonwealth that incarcerates persons convicted of a criminal offense to provide to the  
448 Division of Legislative Services by July 1 of any year in which the decennial census is taken a record  
449 containing the information specified in subsection B for each person who was incarcerated in the facility  
450 on April 1 of that year. Any person incarcerated in a federal correctional facility for whom a record is not  
451 received by the Division of Legislative Services shall be deemed to have an address at the time of  
452 incarceration that cannot be determined.

453 D. The Division of Legislative Services shall prepare adjusted population data, including race and  
454 ethnicity data, in a manner that reflects the inclusion of incarcerated persons in the population count of  
455 the locality in which he is deemed to reside pursuant to subdivision A 1 or 2.

This adjusted population data shall be used for purposes of redistricting and reapportionment and shall be the basis for congressional, state Senate, House of Delegates, and local government election districts. This adjusted population data shall not be used in the distribution of any federal or state aid.

E. The Commission shall make the adjusted population data available no later than 30 days following receipt of the census data. In making this data available, the Commission shall ensure no information regarding a specific incarcerated person's address at the time of incarceration is made public.

**§ 30-384. Proposal and submission of plans for districts.**

Not later than April 15 of the year ending in one, the Commission shall submit to the Speaker of the House of Delegates, the leader in the House of Delegates of the political party having the next highest number of members in the House of Delegates, the President pro tempore of the Senate of Virginia, and the leader in the Senate of Virginia of the political party having the next highest number of members in the Senate of Virginia plans for districts for the United States House of Representatives, the Senate, or the House of Delegates. To be submitted as a proposed plan for districts, a plan shall receive affirmative votes of at least 12 of the 16 commissioners.

If the Commission fails to submit a proposed plan for districts by the deadline contained herein, districts shall be established by the General Assembly. Such districts shall adhere to the criteria and standards set forth in § 30-382.

**§ 30-385. Consideration of plans by the General Assembly; timeline.**

A. All plans for districts for the United States House of Representatives, the Senate, and the House of Delegates shall be embodied in and voted on as separate bills.

B. The General Assembly shall bring each bill to a vote in either the Senate or the House of Delegates expeditiously, but not less than seven days after the plan is received and made available to the members of the General Assembly, under a procedure or rule permitting no amendments except those of a purely corrective nature. Once a bill is approved by the first house in which it is considered, it shall be expeditiously brought to a vote in the second house under a similar procedure or rule.

If a bill fails to be approved by a constitutional majority in either the Senate or the House of Delegates, the Clerk of the Senate or House of Delegates, as the case may be, shall at once transmit to the

Commission information that the Senate or House of Delegates may direct regarding the reasons the plan embodied in such bill was not approved.

C. If the plan submitted under subsection B fails to be enacted, the Commission shall prepare a bill embodying a second plan, which shall take into account the reasons cited by the Senate or House of Delegates for its failure to approve the plan or by the Governor for his veto of the plan insofar as it is possible to do so within the requirements of § 30-382.

If a second plan is required under this subsection, a bill embodying it shall be delivered to the Clerks of the Senate and House of Delegates not later than seven days after the date of the vote by which the Senate or the House of Delegates fails to approve, or the date the Governor vetoes, the bill submitted under subsection B, whichever date is later. Such bill shall be brought to a vote not less than seven days after the bill is printed and made available to the members of the General Assembly, in the same manner as prescribed for the bill required under subsection B including the prohibition against amendments being permitted except those of a purely corrective nature.

If the second bill fails to be approved by a constitutional majority in either the Senate or the House of Delegates, the Clerk of the Senate or House of Delegates, as the case may be, shall at once transmit to the Commission information that the Senate or House of Delegates may direct regarding the reasons the plan was not approved.

D. If the plan submitted under subsection C fails to be enacted, the same procedure as prescribed by subsection C shall be followed. If a third plan is required under this subsection, the bill embodying it shall be delivered to the Clerks of the Senate and House of Delegates not later than seven days after the date of the vote by which the Senate or House of Delegates fails to approve, or the date the Governor vetoes, the bill submitted under subsection C, whichever date is later. If it is necessary to submit a bill under this subsection, the bill shall be brought to a vote within the same time period after its delivery to the Clerks of the Senate and House of Delegates as prescribed for the bill submitted under subsection C, but the bill shall be subject to amendment in the same manner as other bills.

**§ 30-386. Remedial redistricting plans.**

If any congressional or state legislative district established pursuant to this chapter or the provisions of Article II, Section 6 and Section 6-A of the Constitution of Virginia is declared unlawful or unconstitutional, in whole or in part, by order of any state or federal court, the Commission shall be convened to determine and propose a redistricting plan to remedy the unlawful or unconstitutional district.

**§ 53.1-5.2. Compilation of certain data for redistricting purposes.**

A. The Board shall direct the sheriffs of all local jails and the jail superintendents of all regional jails to provide to it, no later than May 1 of any year in which the decennial census is taken, information regarding each person incarcerated in a local or regional jail on April 1 of that year. Such information shall include, for each person incarcerated, (i) his residential street address at the time of incarceration, or other legal residence, if known; (ii) his race, his ethnicity as identified by him, and whether he is 18 years of age or older; and (iii) the street address of the correctional facility in which he was incarcerated on April 1 of that year. Upon receipt of such information, the Board shall assign to each person a unique identifier, other than his name or offender identification number.

B. Pursuant to § 30-383, the Board shall provide to the Division of Legislative Services, not later than July 1 of any year in which the decennial census is taken and in a format specified by the Division of Legislative Services, the information specified in subsection A, including the Board-assigned unique identifier.

**§ 53.1-10. Powers and duties of Director.**

The Director shall be the chief executive officer of the Department and shall have the following duties and powers:

1. To supervise and manage the Department and its system of state correctional facilities;
2. To implement the standards and goals of the Board as formulated for local and community correctional programs and facilities and lock-ups;
3. To employ such personnel and develop and implement such programs as may be necessary to carry out the provisions of this title, subject to Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2, and within the limits of appropriations made therefor by the General Assembly;

4. To establish and maintain a general system of schools for persons committed to the institutions and community-based programs for adults as set forth in § 53.1-67.9. Such system shall include, as applicable, elementary, secondary, postsecondary, career and technical education, adult, and special education schools.

a. The Director shall employ a Superintendent who will oversee the operation of educational and vocational programs in all institutions and community-based programs for adults as set forth in § 53.1-67.9 operated by the Department. The Department shall be designated as a local education agency (LEA) but shall not be eligible to receive state funds appropriated for direct aid to public education.

b. When the Department employs a teacher licensed by the Board of Education to provide instruction in the schools of the correctional centers, the Department of Human Resource Management shall establish salary schedules for the teachers which endeavor to be competitive with those in effect for the school division in which the correctional center is located.

c. The Superintendent shall develop a functional literacy program for inmates testing below a selected grade level, which shall be at least at the twelfth grade level. The program shall include guidelines for implementation and test administration, participation requirements, criteria for satisfactory completion, and a strategic plan for encouraging enrollment at an institution of higher education or an accredited vocational training program or other accredited continuing education program.

d. For the purposes of this section, the term "functional literacy" shall mean those educational skills necessary to function independently in society, including, but not limited to, reading, writing, comprehension, and arithmetic computation.

e. In evaluating a prisoner's educational needs and abilities pursuant to § 53.1-32.1, the Superintendent shall create a system for identifying prisoners with learning disabilities.

5. a. To make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, including, but not limited to, contracts with the United States, other states, and agencies and governmental subdivisions of this Commonwealth, and contracts with corporations, partnerships, or individuals which include, but are not limited to, the purchase of water or wastewater treatment services or both as necessary for the

expansion or construction of correctional facilities, consistent with applicable standards and goals of the Board;

b. Notwithstanding the Director's discretion to make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, upon determining that it shall be desirable to contract with a public or private entity for the provision of community-based residential services pursuant to Chapter 5 (§ 53.1-177 et seq.), the Director shall notify the local governing body of the jurisdiction in which the facility is to be located of the proposal and of the facility's proposed location and provide notice, where requested, to the chief law-enforcement officer for such locality when an offender is placed in the facility at issue;

c. Notwithstanding the Director's discretion to make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, upon determining that it is necessary to transport Virginia prisoners through or to another state and for other states to transport their prisoners within the Commonwealth, the Director may execute reciprocal agreements with other states' corrections agencies governing such transports that shall include provisions allowing each state to retain authority over its prisoners while in the other state.

6. To accept, hold and enjoy gifts, donations and bequests on behalf of the Department from the United States government and agencies and instrumentalities thereof, and any other source, subject to the approval of the Governor. To these ends, the Director shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient or desirable, consistent with applicable standards and goals of the Board;

7. To collect data pertaining to the demographic characteristics of adults, and juveniles who are adjudicated as adults, incarcerated in state correctional institutions, including, but not limited to, the race or ethnicity, age, and gender of such persons, whether they are a member of a criminal gang, and the types of and extent to which health-related problems are prevalent among such persons. Beginning July 1, 1997, such data shall be collected, tabulated quarterly, and reported by the Director to the Governor and the General Assembly at each regular session of the General Assembly thereafter. The report shall be

submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports;

8. To make application to the appropriate state and federal entities so as to provide any prisoner who is committed to the custody of the state a Department of Motor Vehicles approved identification card that would expire 90 days from issuance, a copy of his birth certificate if such person was born in the Commonwealth, and a social security card from the Social Security Administration;

9. To forward to the Commonwealth's Attorneys' Services Council, updated on a monthly basis, a list of all identified criminal gang members incarcerated in state correctional institutions. The list shall contain identifying information for each criminal gang member, as well as his criminal record;

10. To give notice, to the attorney for the Commonwealth prosecuting a defendant for an offense that occurred in a state correctional facility, of that defendant's known gang membership. The notice shall contain identifying information for each criminal gang member as well as his criminal record;

11. To designate employees of the Department with internal investigations authority to have the same power as a sheriff or a law-enforcement officer in the investigation of allegations of criminal behavior affecting the operations of the Department. Such employees shall be subject to any minimum training standards established by the Department of Criminal Justice Services under § 9.1-102 for law-enforcement officers prior to exercising any law-enforcement power granted under this subdivision. Nothing in this section shall be construed to grant the Department any authority over the operation and security of local jails not specified in any other provision of law. The Department shall investigate allegations of criminal behavior in accordance with a written agreement entered into with the Department of State Police. The Department shall not investigate any action falling within the authority vested in the Office of the State Inspector General pursuant to Chapter 3.2 (§ 2.2-307 et seq.) of Title 2.2 unless specifically authorized by the Office of the State Inspector General;

12. To enforce and direct the Department to enforce regulatory policies promulgated by the Board prohibiting the possession of obscene materials, as defined in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, by prisoners incarcerated in state correctional facilities;~~and~~

13. To develop and administer a survey of each correctional officer, as defined in § 53.1-1, who resigns, is terminated, or is transitioned to a position other than correctional officer for the purpose of evaluating employment conditions and factors that contribute to or impede the retention of correctional officers; and

14. To provide, pursuant to § 30-383, to the Division of Legislative Services, not later than July 1 of any year in which the decennial census is taken and in a format specified by the Division of Legislative Services, information regarding each person incarcerated in a state correctional facility on April 1 of that year. Such information shall include, for each person incarcerated, (i) a unique identifier, other than his name or offender identification number, assigned by the Director; (ii) his residential street address at the time of incarceration, or other legal residence, if known; (iii) his race, his ethnicity as identified by him, and whether he is 18 years of age or older; and (iv) the street address of the correctional facility in which he was incarcerated on April 1 of that year.

**2. That, notwithstanding the deadlines set forth in §§ 30-383, 53.1-5.2, and 53.1-10 of this act, the Board of Corrections shall direct the sheriffs of all local jails and the jail superintendents of all regional jails to provide to it the information required pursuant to § 53.1-5.2 by August 1, 2020; the Department of Corrections and the Board of Corrections shall provide to the Division of Legislative Services the information required pursuant to § 30-383 by September 1, 2020; and the Division of Legislative Services shall request each agency operating a federal correction facility in the Commonwealth to provide to it the information specified in § 30-383 by September 1, 2020.**

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